

EXHIBIT 1

INTRODUCTION

Respondent Children's Rights 2000 (hereinafter the "Committee") was a ballot measure committee existing primarily to support the qualification of Proposition 223, and the Cigarette Tax, After School Tutoring initiative, for the June 2, 1998 primary election ballot. At all times relevant to this matter, Respondent Kinde Durkee was the treasurer of Respondent Committee.

Under the authority granted by the Political Reform Act (the "Act"),¹ the Franchise Tax Board (the "FTB") audited Respondent Committee for the time period covering January 1, 1995 through June 30, 1998. During the audit period, the Committee received contributions totaling \$509,041, and made expenditures totaling \$530,009. Based on the FTB audit findings, and the Commission's own investigation, Respondents failed to disclose on their campaign statements required sub-vendor information for \$72,729 in expenditures.

For the purposes of this Stipulation, Respondents' violation of the Act is stated as follows:

Respondents Children's Rights 2000 and Kinde Durkee failed to report sub-vendor information for \$72,729 in payments made to Progressive Campaigns, in violation of section 84303.

SUMMARY OF THE LAW

An express purpose of the Act, as set forth in section 81002, subdivision (a), is to ensure that contributions and expenditures in election campaigns are fully and truthfully disclosed to the public, so that voters may be better informed, and improper practices may be inhibited. The Act therefore establishes a campaign reporting system designed to accomplish this purpose.

Section 82013, subdivision (a), defines a "committee" as any person or combination of persons who directly or indirectly receives contributions totaling \$1,000 or more in a calendar year. Section 84211 prescribes that certain information must be disclosed on campaign statements filed by a committee, including information about contributions received, and expenditures made by the committee. For each person to whom an expenditure of \$100 or more has been made during a reporting period, the

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations, section 18000, *et seq.* All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

campaign statement must provide the full name of the payee, his or her street address, the amount of the expenditure, and a brief description of the consideration for which the expenditure was made. (Section 84211, subd. (k)(1)-(4).)

Section 84303 provides that no expenditure shall be made, other than for overhead and normal operating expenses, by an agent or independent contractor, including, but not limited to, an advertising agency, on behalf of, or for the benefit of, any candidate or committee, unless the expenditure is reported by the candidate or committee as if the expenditure was made directly by the candidate or committee. This is commonly referred to as the required disclosure of “sub-vendor” expenditures.

Requiring committees to report information about sub-vendor expenditures is necessary to prevent campaigns from avoiding disclosure of required information about their expenditures simply by making the expenditures through an agent.

Under section 84100 and regulation 18427, subdivision (a), a committee’s treasurer has the duty to ensure compliance with all requirements of the Act concerning the receipt and expenditure of funds, and the reporting of such funds. Pursuant to sections 83116.5 and 91006, the treasurer of a committee may be held jointly and severally liable, along with the committee, for the committee’s reporting violations.

SUMMARY OF THE FACTS

Respondent Committee filed its original statement of organization with the Secretary of State on July 12, 1995, stating that it was a state general purpose committee,² and stating that its purpose was to raise funds to support children’s rights legislation

In accordance with its express purpose, Respondent Committee focused its financial resources on the qualification of Proposition 223 for the 1998 Primary Election ballot, along with another ballot measure regarding children’s issues. Respondent Committee succeeded in qualifying Proposition 223 for the 1998 Primary Election ballot.

When the FTB audited the Committee’s finances for the period January 1, 1995 through June 30, 1998, the FTB made a material finding that Respondent Committee had failed to disclose sub-vendor expenditures in its campaign statements. Upon further review of the audit materials by Enforcement Division staff, staff found that Respondents failed to disclose in their campaign statements sub-vendor information for payments of \$72,729 made to Progressive Campaigns for invoiced expenditures that were incurred *after* the qualification of Proposition 223. In this regard, Respondents failed to provide the identifying information for the sub-vendors and/or an itemization of the expenditures, in violation of section 84303.

² Notwithstanding the description of Respondent Committee in its statement of organization as a general purpose committee, the auditor found that it was a primarily formed committee based upon its predominant activity in attempting to qualify two ballot measures. (See § 82047.5, subd. (d).)

CONCLUSION

This matter consists of one count, which carries a maximum possible administrative penalty of Two Thousand Dollars (\$2,000). While the sub-vendors in this matter were not disclosed, the expenditure to the vendor was. This somewhat lessens the public harm of the violation. Also, in comparison with other sub-vendor non-reporting cases, the total amount of the expenditure was relatively modest. In light of these factors, a penalty in the amount of \$1,000 is justified.